

DISTRICT ADVISORY BOARD (DAB) I

MEETING MINUTES

Monday, August 4, 2008

6:30 p.m.

Atwater Community Center, 2755 E. 19th, Wichita, Kansas 67214

Members Present

Council Member Lavonta Williams
Tythan Miles
Janice Rich
Lori Lawrence
Debra Miller Stevens
Gerald Domotrovic
Treatha Brown-Foster
Gail Finney
Janet L Wilson*

*Alternate

Guests

Beverly Domotrovic, 1219 GW Drive
Anthony Suber, 1950 N Spruce
Oletha Faust Gaudeau, 4158 Regents
John Stevens, 3125 E. Boston
Greg Ferris, PO Box 573
Mark & Tanya Collins, PO Box 47131
Ed, 227 N Battin
B. Bonen, 552 N Oliver
Scott Cloud, 2801 E. Kellogg Drive
Jo Zahon, 5002 E Central
Michael Barushok, 354 N Green
Dan Rouser, 1107 N. Pinecrest
Dan Rouser, 1107 N Pinecrest
Mary McDonald, 1654 N Lorraine
James Arbertha, 1802 N. Hydraulic
Mark Mercer, 505 S Volutsia
Shannon Palmer, 807 S Chautauqua
Kenya Cox, 2745 N Fountain

City of Wichita Staff Present

LaShonda Porter, Neighborhood Assistant
Fire Marshall Ed Bricknell, Fire Department
Officer Shek Weber, 44 Beat, Wichita Police Department
Officer Paul Kimble, 47 Beat, Wichita Police Department
Officer Alex Recio, 23 Beat, Wichita Police Department
Sgt. Ed Brower, Patrol North
Bill Longnecker, Planning Department

Order of Business

Call to Order

Council Member Williams called the meeting to order at 6:35 p.m. and welcomed the guests.

Approval of Minutes

Finney (Brown-Foster) made a motion to approve the minutes as submitted. Motion carried **8:0**

Approval of Agenda

Finney (Brown-Foster) made a motion to approve the agenda as submitted. Motion carried **8:0**

CM Williams thanked everyone for coming and asked that if anyone chose to speak that they state their name and address for the record.

Public Agenda

1. Agenda Items

Neighborhood Pride Recipient Recognition: recipient not in attendance.

2. Off Agenda Items

No items submitted.

Staff Report

1. Police Report

Officer Shek Weber, Beat 44 provided an update on the incidents of Beat 44 which included:

- Burglaries have increased but two suspects have been identified. He noted that a group of kids have been identified in Beat 43 and 45 for burglaries and they have charged two of the youth;
- In the 1500 block of Green a homicide occurred of a 1-year old child. A suspect has been arrested and this is an isolated incident. He noted that the case is still under investigation;
- Another homicide occurred at 3016 E. 11th Street and this was of a 17-year old;
- A prostitution sting occurred on July 29th arresting five girls, two drug offenses, and two warrants were cleared;
- START program is still on-going and that there are 13-applications pending for the exterior grant;
- 1543 N Spruce, trying to get a nuisance abatement order, for the last 9 years there has been a complaint every year for drugs or prostitution;
- Sunflower Apartments still working with management to resolve issues;
- Crime stats are down for the last two months for May and June.

Weber advised that National Night out starting tomorrow.

CM Williams wanted to know if the participant list was available yet. **Weber** advised that he had just received the list and would send to LaShonda.

Brown-Foster wanted to know if they arrested men in during the prostitution sting. **Weber** advised that if they are there during the sting they would. **Sgt. Ed Brower** added that they also do john stings specifically to address that issue.

Officer Paul Kimble, Beat 47 advised that there was a shooting at 1927 McFarland, one house was struck, no one hit and no suspects. This case is still under investigation. **Kimble** also advised that there is an increase in burglaries to businesses, and they are stealing cigarettes, alcohol and money. He noted that they know of a suspect but need to capture him.

CM Williams inquired about the suspect's age. **Kimble** noted he is probably in his forties.

Alex Recio, Beat 23 advised that they are working on projects in 300 block of Douglas working on larcenies. **Recio** also noted that they are having issues with the homeless at 300 N. Market.

LaShonda left the meeting to adjust room temperature did not record the update from Officer Ryan.

The **Board** thanked the **Officers** for their update.

Action Taken: Received and filed.

2. **Fire Report**

Fire Marshall Ed Bricknell introduced the fire crew from station 10 – Captain Reed and Firefighter Holster. He also advised the Board of the fires that have occurred between July 1st and July 31st in the community. Those incidents included:

- July 4th – 1128 N. Poplar – House collapsed, \$31,000 in damages
- July 5th – 1321 E. 1st – building fire – spontaneous combustion, approximately \$60,000 in damages
- July 14th – 12th Poplar – vacant house, \$5,000 in damages
- July 20th - 2035 E. 13th – 2 story building set on fire, \$60,000 in damages
- July 20th – 190 S Estelle – cooking fire, had to arrest individual for interfering with putting out the fire, \$5,000 in damages
- July 20th – 2350 Prince – cooking fire, \$25,000 in damages

Bricknell advised that the fire work incidents were down this year; noted that complaints went down by 19%, fire related incidents were down 17% but fire loss went up 100% as last year there were \$0.00 in damages and this year it increased to \$130,000 in damages.

Finney wanted to know if the youth were little children. **Bricknell** advised that they were young adults.

CM Williams asked if the **Bricknell** could send the fireworks report to LaShonda for distribution to the Board. **Bricknell** advised that he would.

The **Board** thanked the **Fire Marshall Bricknell and staff** for their report.

Action Taken: Received and filed.

New Business

Debra Miller-Stevens noted she would abstain from voting on this item as she already voted at MAPC.

3. **CON2008-00032**

Bill Longnecker, Planning Department, presented information on the conditional use request for a wireless communication facility generally located south of Kellogg Drive, midway between Grove Street and Hillside Avenue, on the west side of Erie.

Longnecker noted that the applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit for the construction of a 120-foot high, galvanized steel, monopole cell phone tower. **Longnecker** noted that the site abuts the south side of the US 54/Kellogg Street road system. The “Amended Wireless Communication Facility Ordinance” (adopted by the WCC 4-08-08 & BoCC 4-9-08), permits new wireless communication facilities 120 feet in height in the LC zoning district as an Administrative Permit, if the site is identified as a “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map” and it complies with the 1/1 compatibility height standards (Art IV, Sec IV-C, 5b). The site is not identified on the “Facility Map,” thus it is not eligible of an Administrative Permit, but it may be considered for a Conditional Use. It appears to meet the compatibility height standards.

Longnecker advised that the agent has provided a letter that states that T-Mobile had approached K-DOT and proposed replacing an existing light pole in the US 54/Kellogg Street with a monopole that would allow them to attach their lights, but were rebuffed. The agent has also stated that T-Mobile had contacted the high raise condominium

structure at the corner of Douglas Avenue and Rutan Street, but was told that they did not lease space to wireless carriers. The “Wireless Communication Plan” encourages contact with such public and private agencies as K-DOT, KTA and KG&E in regards to location on light standards, sign structures and electric support structures for new wireless communication facilities. It also encourages location on multi-story buildings.

Longnecker also described the adjacent zoning and land use to include single family residences to the north and south; vacant lots, duplexes, local retail and single family residences to the east and office warehouse and single family residences to the west.

Longnecker goes to explain that several calls on this case have been received and a Neighborhood Association did not get notified of the case because they had the old president listed with the City. He noted that he has made contact with all Neighborhood Assistants indicating that we need to get an updated list of all Neighborhood and Homeowner Associations so that we can have the most current information to avoid situations like this in the future.

Longnecker then passed out a letter from a property owner who did not get notified of the request. He noted that staff works off a list from the title search company as is not sure how this owner was missed. He advised that the property owners would like another hearing at MAPC so that they can express their opposition.

Longnecker noted that the MAPC has unanimously approved the request and at that meeting there were no protest. The MAPC made their decision on July 24th.

Longnecker further stated the staff is recommending approval of the request subject to the following conditions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a “monopole” design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 0.08-acre tower site shall be developed in general conformance with the approved revised site and landscape plan. These plans must show dimension control, parking, all light poles, lights, power poles, cabinets, equipment or buildings within

- the fenced in site or in the immediate area if it is to be used by the site. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
 - H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Domotrovic wanted to know if strobe lights are a requirement. **Longnecker** stated probably not at this location.

Lawrence wanted to know what was needed to convince K-Dot to approve this co-location. **Longnecker** advised that was a question for the agent Mr. Ferris.

Thompson wanted to know if only two people protested the request. **Longnecker** advised no more than that have protested, and two individuals were not properly notified.

Domotrovic wanted to know how many feet away from the site were the property owners who were notified. **Longnecker** advised that those within in the required notification area. He noted that the way they were listed on geo zone is with two property owners and two mailing addresses. So there is a mix-up with the ownership list and we will address this error in the staff report to City Council and they can send the item back to MAPC if they choose.

Wilson wanted to know how many people have you heard from that were notified since MAPC? **Longnecker** advised that we have heard from four.

Brown-Foster wanted to know how many cell-towers in this area or District I? **Longnecker** stated that he was not sure. **Brown-Foster** followed up with 2nd question asking if this would be like the tower currently on Kellogg. **Longnecker** it would be more in line with the one at Linwood Park. **Brown-Foster** then asked since the applicant has not proposed any lighting, could he confirm if there would be strobe lighting. **Longnecker** responded he would allow agent Greg Ferris to answer that question.

Greg Ferris, T-Mobile Agent, 517 S Erie advised that the process for cell phone towers begins with first identifying if there are any towers that they are able to co-locate and if not we then look for a building to co-locate. If those options are not available then we look for vacant lots that we could potentially lease. He noted that based on the demand for cell phone use, towers are going to be within 1 mile to every ½ mile to meet customer demands.

Ferris then went on to address the question regarding co-location with K-Dot and advised that you can call your state representative about K-Dot not allowing cell phones companies to attach to their poles and how they are losing money for not allowing such partnerships.

Ferris then went on to address the concern regarding the property owners who were notified. He noted that the title company uses the register of deeds to compile their list of owners not the tax assessment list from Sedgwick County. He also noted that there would be no lighting on this tower.

Lawrence wanted to know if T-Mobile was going to buy this property. **Ferris** advised that no they would be leasing it from an individual that is purchasing property. **Lawrence** followed up with a 2nd question wanted to know how big the tower would be and what screening would be around the tower. **Ferris** advised that the base of the tower would be around 5 feet, and that a solid wood fence would cover the base along with evergreen trees. **Lawrence** then asked who would be responsible for the maintenance. **Ferris** noted that the local land owner would be responsible. He also noted that if the land owner does not maintain the property, the planning department can pull there permit as it is part of the conditional use conditions.

Myles wanted to know if this would devalue the property values of the surrounding homes, and if this was not approved what was their backup plan.

Ferris noted that wireless towers do not devalue properties value per several studies that have been conducted. He noted that he has not seen a major impact to the new development. He further explained that if this is not approved they will go back to the drawing board and try to find a different location in this area, but they did not have many options. He further explained that this was a high-priority area for T-Mobile as their customer base is demanding more service.

Wilson wanted to know if the land owner who is leasing the property had plans to develop the rest of the property. **Ferris** stated that he was not sure.

Shannon Palmer, Sunnyside Neighborhood Association President, 807 S. Chautauqua advised that here Neighborhood Associations strongly oppose this request. She noted that they strongly believe that the property values will be lowered because the perception is that the property values will be lowered. She stated that they are hoping for conformity and that the fence would become an eyesore because no other commercial business has fences. She noted that she has 7 signed petitions, but if allotted more time she couldn't definitely get more.

Domotrovic wanted to know if Palmer had spoke to the neighbors about the service provided by T-Mobile. **Palmer** responded no. **Domotrovic** then asked when the Neighborhood Association would hold their next meeting. **Palmer** advised that they meet every three months, but she could call a special meeting to address this issue.

Wilson wanted to know if the Neighborhood Association would be opposed to a tower if they were able to co-locate. **Palmer** stated absolutely not, that co-locating would be

acceptable. **Wilson** also asked if they would be opposed to the tower if it was located on the back of the property. **Palmer** advised that she would have to have a better idea of where it would sit, but it probably wouldn't make a big difference. The fence is a big problem and would stick out like a sore thumb.

Palmer explained that there is no way to get a tower at the location without it being an eyesore.

Gail Finney left meeting at 8:07 p.m.

Beverly Domotrovic, 1210 George Washington Drive, asked Palmer when there Neighborhood association reactivated. **Palmer** stated that she just became actively involved two years ago. **Domotrovic** then asked if Palmer had ask T-Mobile customers of her Neighborhood Association about their needs. **Palmer** responded that she is not aware of any issues.

Mark Collins, 2801 E. Douglas stated I was not notified of this request and the biggest problem for me is the eyesore this facility will bring to the neighborhood. He noted that he is within 20 to 30 feet of the tower and additionally this is going to sit right on Kellogg.

Mark Mercer, 505 S Volutsia stated that he lives across the street from site and was informed of the MAPC hearing for July 28th on July 29th. He noted that he is in opposition of this request. He also noted that he is concerned that the towers might fall over, in which it would fall onto Kellogg and his property.

Bagdam Burnett, 2803 Kellogg stated this is right across from my drive way and he is oppose to this request. He also stated that they need more time to discuss since everyone was not notified properly.

Shannon Palmer, Sunnyside Neighborhood Association President, stated the pictures provided by Mr. Ferris are taken on an angle so it does not show the true visual impact.

Greg Ferris, T-Mobile Agent advised that they do not have fall setbacks that they are required to have compatibility setbacks. He also noted that our towers don't fall over and that they never had one to fall over. He noted that he would be glad to meet with anyone regarding the towers to address their concerns.

Lawrence asked Ferris if the Board requested the action be deferred on this case what impact that would have on T-Mobile. **Ferris** noted that the tower was planned to be built by the end of the year.

Thompson made a motion to defer action and send back to the MAPC to allow for a meeting with Neighborhood Association and community within 30 days. **Domotrovic** 2nd the motion.

Longnecker advised that the Board does not have the authority to send back to the MAPC only the City Council does; however, he did note that residents still had two

weeks to protest this request. He noted that the protest period will end August 7th at 5:00 p.m. He advised that the earliest this would go before the City Council is September 9th.

Motion remained as submitted by Thompson.

Action Taken: Thompson made a motion to defer action and send back to the MAPC to allow for a meeting with Neighborhood Association and community within 30 days. Domotrovic 2nd the motion. Motion carried. (6:0)

**Debra Miller-Stevens abstained from voting. Janet Wilson not a voting member as she has not be sworn in by City Clerk's Office.*

4. ZON2008-00038

Bill Longecker, Planning Department presented information on the rezoning request to rezone from General Office to Limited Commercial, generally located north and east of the intersection of Oliver and Central Avenues (5002 E. Central Avenue).

Longecker noted that the subject site is located in flood zone AE. The AE flood zone is a flood insurance rate zone that corresponds to the 100-year floodplain that is determined in the Flood Insurance Study by detailed methods. He also described the adjacent zoning and land use included: single-family residence to the north and south, offices to the east, and a four-plex to the west.

Longecker advised that based upon the information prior to the public hearings, planning staff recommends that the request for Limited Commercial be denied; however, they are recommending an alternative if the Board would like to approve the request. They would recommend approval of Neighborhood Retail zoning. **Longecker** noted that this recommendation was based on the following findings:

1. The zoning, uses and character of the neighborhood: Property south of the subject site, across Central Avenue, is zoned B, and is developed with a single-family residence, built in the early 1940s. Property east of the site is zoned NR and is developed with an office use and small-scale retail uses. Property north of the subject site is zoned SF-5 and is developed with single-family residences. West of the subject site the property is zoned B and is developed with a four-plex residence.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned GO. The GO district permits a variety of residential and commercial uses, but no retail uses. The site could probably be adapted to uses currently allowed. The site contains 0.18 acres, which is a small area for most retail uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of LC zoning would introduce some uses not in character with adjacent existing residential uses. Commercial uses generate more average daily traffic; introduce larger signage and more lighting than is found in typical residential areas putting increased pressure on existing nearby residences.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The subject site is too small to support a large commercial operation within LC zoning. Acquisition of additional property and subsequent rezoning to LC could become a option in the future if this application is approved for LC zoning.

5. Conformance of the requested change to adopted or recognized Plans/Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The NR zoning permits uses that are local in nature as opposed to LC zoning.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

6. Impact of the proposed development on community facilities: All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

However, should the Planning Commission find that the proposed rezone to LC is an appropriate request; planning staff recommends the following Protective Overlay:

1. All uses allowed as permitted uses in the "LC" Limited Commercial zoning district except the following: liquor stores; adult bookstores; pawn shops; funeral home; adult entertainment; convenience stores; construction sales and service; hotel or motel; night club; recreation and entertainment, indoor; service station; restaurants (including no drive-up window service or in-vehicle food service); tavern and drinking establishment; vehicle repair, limited and vehicle and equipment sales, outdoor and wireless communication facility;
2. Signage on the site shall be limited to that permitted in the "NR" Neighborhood Retail zone. No signage shall face property zoned or used for residential purposes;
3. Submission and approval of a drainage plan prior to issuance of any building permits.
4. Dedication of access control except for one opening along Central Avenue.
5. The site shall be developed in conformance with code required noise, setback and height standards, zoning screening and buffering and landscaping requirements unless modified by this Protective Overlay;
6. A six to eight-foot high masonry wall shall be constructed along the north and west property line;
7. No outdoor storage shall be permitted on the site;
8. Outdoor lighting on the site shall be restricted to 12 feet in height, including the base, and shall be shielded away from residential zoning;
9. Outdoor speakers and sound amplification systems shall not be permitted.

Longnecker also noted a change to the protective overlay condition #1, noting that liquor stores should be removed as it is not appropriate to single out one business for general use.

Domotrovic asked if the applicant was comfortable with the Neighborhood Retail zoning verses Limited Commercial. **Longnecker** responded that the applicant wants Limited Commercial.

Lawrence wanted to know if staff knew what the owner was going to build on the site. **Longnecker** stated he would letter the owner respond.

Bagdam Burnett, 2803 Kellogg also wanted to know what was being built at the property.

Jo Zakas, Applicant, owner of Clifton Square stated that one of her tenants is not in compliance with current zoning and this is the main reason for the request to be changed to Limited Commercial. Additionally, she noted that a developer has approached her regarding her land and it will be advantageous for her to have the zoning changed now before the sell goes forward.

Zakas advised that currently there are no plans to make any changes to the property within the next 2 years. She also added that currently her property is too small to do anything more different from what they are doing now.

Wilson wanted to know what would happen if they request was not approved. **Zakas** advised that I would end up spending more money when I was eligible to re-apply for the rezoning request.

Domotrovic asked if Neighborhood Retail (NR) would allow you to operate your business. **Zakas** advised that yes she would be able to operate her business but she would eventually comeback for Limited Commercial zoning.

Action Taken: Board recommended approval of the request for Limited Commercial with the provision of the protective overlay. Motion passed (6:0)

**Debra Miller-Stevens abstained from voting. Janet Wilson not a voting member as she has not been sworn in by City Clerk's Office.*

Board Agenda

5. Updates, Issues, and Reports

Wilson advised that A Price Woodard would be hosting a National Night Out party.

Rich advised that there cleanup was very successful. She also noted that the map on the city's website is out of date; however the contact information is correction. She provided the boundaries for her Neighborhood Association: 1st Street on the north, Lincoln on the South, Washington on the west, and I-135 on the east.

Miller Stevens advised that Schwieter East would be having an ice cream social for National Night Out.

Brown –Foster noted that she still has concerns with the proposed water rate increases. She noted that in review of the 2005-2006 budgets there was a 3% increase and additional 4% for odor control. She stated that the proposed 8% increase is way too high, and feels that this need is impossible and either someone is either underpaying or embezzling funds. She noted that she feels an audit of the Water department is needed, because over the last 5 years a 40% increase has been imposed on the residents.

Brown-Foster also noted that the Northeast Millair Neighborhood Association will be having a block party for National Night Out.

CM Williams announced that she has reserved a trolley for the DAB to visit the parties for National Night Out. She noted that the trolley will leave Atwater at 6:00 p.m. **Rich, Lawrence, and Domotrovic** all confirmed that they would be riding the trolley.

CM Williams also welcomed Janet Wilson to the DAB Board as well as Tythan Miles as a full voting member. She noted that Benjamin Stiff would be returning and Gail Finney would also return as District 1 alternate.

With no further business, **Brown-Foster (Miles)** made a motion to adjourn. Motion carried 6-0. The meeting adjourned at 9:06 p.m.

Respectfully Submitted,
LaShonda Porter
Neighborhood Assistant